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ANNEXURE
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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

MISC. APPEAL [C] No.:- 208 / 2007. **D.B.**

APPELLANTS: -
[Claimants]

1. **Smt. Kasturi Bhoi,** Age- 28 Yrs,
W/O Late Vishnu Bhoi,

2. **Anil Kumar Bhoi,** Age-10 Yrs.[Minor]
S/O Late Vishnu Bhoi,

3. **Ku. Anjali Bhoi,** Age-08 Yrs.[Minor]
D/O Late Vishnu Bhoi,

4. **Amit Kumar Bhoi,** Age-06 Yrs.[Minor]
S/O Late Vishnu Bhoi,

5. **Smt. Sarojini Bhoi,** Age-50 Yrs.
W/O Shri Jivardhan Bhoi,

Minor appellant no.02 to 04 are represented by the appellant no.01,Smt. Kasturi Bhoi,

All the above are R/O Village-Jirapali, P.S. Baramkela, Tahsil & Distt. Raigarh, C.G. At Present r/o Village- Paikin, P.S. & Tahsil- Saraipali, Distt. Mahasamund[C.G]

: V E R S U S:

RESPONDENTS: -
(Non-applicants)

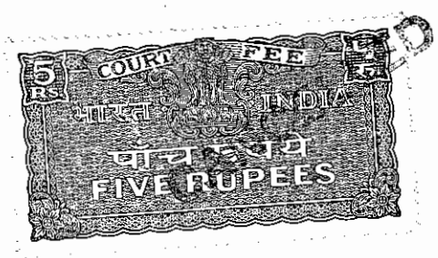
1. **Aazad Khan,**
S/O Shakir Khan,
R/O Muktibada, Shivarpur,
Bulandshaher, P.S.,Tahsil&
Distt.Bulandshaher,
(Uttar Pradesh State)

[Driver of the Truck No. H.R. 38/R-2441]

4. **Virendra Singh,**
S/O R.P. Singh,
R/O Vazirpur, Village- Delhi Pradesh.
Delhi-Pradesh.

[Owner of the Truck No. H.R. 38/R-2441]

5. **The Oriental Insurance Com. Ltd.**
Divisional Office at Madina Building,
Jail Road, Raipur,
Distt. Raipur [C.G.]
[Ins. Com. of the Truck No. H.R. 38/R-2441]



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ANNEXURE
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-: MEMO OF MISC.APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT. : -

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HIGH COURT OF CHHATTISGARH : BILASPUR

Division Bench

Coram : **Hon'ble Shri H.L. Dattu, CJ &**
Hon'ble Shri V.K. Shrivastava, J

MISC. APPEAL (C) NO. 208 OF 2007

APPELLANTS: Smt. Kasturi Bhoi and others

Versus

RESPONDENTS: Aazad Khan and others.

Present : Shri J.A. Lohani, counsel for the appellants.
None for respondents.

ORAL ORDER

(Passed on 15th February, 2007)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 (henceforth, "the Act, 1988") by the claimants/appellants for enhancement of compensation against the award dated 29/09/2006 passed by II Additional Motor Accident Claims Tribunal, Mahasamund (henceforth, "the Tribunal") in Claim Case No. 102/2006, whereby they have been awarded compensation of Rs.4,70,000/-.

2) The factual matrix of the case, in brief, is that on 13/04/2006 at about 09.30 am when Vishnu Bhoi (since deceased) was standing along with his other companions, he met with an accident by Truck bearing registration No.H.R.38/R/2441 (for short "vehicle") driven by respondent No.1 in a rash and negligent manner. Deceased sustained injuries and succumbed to those. Respondent No.1 is driver of the vehicle, respondent No.2 is owner and vehicle was insured with respondent No.3. Appellants who are legal representatives of deceased Vishnu Bhoi filed an

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application under Section 166 of the Act, 1988 for grant of compensation against the respondents. Respondents No.1 and 2 remained ex parte whereas respondent No.3 contested the claim.

3) Learned Tribunal after appreciating the evidence adduced by the appellants, vide impugned award allowed the compensation of Rs.4,70,000/- under various heads as below :

a)	Loss of dependency	--	Rs.4,08,000/-
b)	Loss of consortium	--	Rs. 20,000/-
c)	Loss of love and affection	--	Rs. 20,000/-
d)	Funeral expenses	--	Rs. 2,000/-
e)	Loss of estate	--	Rs. 20,000/-
	Total	--	Rs.4,70,000/-

4) Learned counsel for the appellant contended that the Tribunal only allowed Rs.4,70,000/- towards compensation and that is not a just and proper compensation.

5) No legal documentary evidence to support the income has been adduced. However, learned Tribunal after taking into consideration that the deceased was the only earning member and considering his business allowed monthly income of Rs.3,000/- and after deduction of 1/3rd, loss of dependency per month was assessed Rs.2000/-. After applying correct multiplier, loss of dependency has been calculated Rs.4,08,000/- Learned Tribunal has allowed Rs.2,000/- towards funeral expenses, Rs.20,000/- towards loss of consortium, for love and affection granted Rs.20,000/- and also allowed Rs.20,000/- towards loss of estate.

6) Though learned Tribunal allowed compensation on loss of consortium, loss of estate more than the amount fixed under Schedule II of Section 163 A of the Act 1988, yet in absence of any attack, we are not inclined to interfere with those findings recorded by the Tribunal at this stage. The award passed by the Tribunal does not appear to be unjust or unreasonable. We do not find any material to interfere with the award passed by the Tribunal, therefore, the appeal is dismissed.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge